



**COMMONWEALTH of VIRGINIA**  
**Department of Medical Assistance Services**

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**MASTER INTERAGENCY / BUSINESS ASSOCIATE AGREEMENT;  
PRIVACY AND SECURITY OF PROTECTED HEALTH INFORMATION**

***GENERAL CONDITIONS***

**THIS BUSINESS ASSOCIATE AGREEMENT** is made as of [date] by the Department of Medical Assistance Services (herein referred to as "Covered Entity"), with an office at [address] and [name of business associate] (herein referred to as "Business Associate"), a [corporation or department] with an office at [address].

This BUSINESS ASSOCIATE AGREEMENT (herein referred to as the "Agreement") constitutes a non-exclusive agreement between the Covered Entity, which administers Medical Assistance, and the Business Associate named above. The Business Associate is authorized to release specified information to participating Medicaid providers who choose to use the Business Associate as a means of obtaining eligibility information on Medicaid enrollees.

The Covered Entity and Business Associate, as defined in section 160.103 of the Final HIPAA Privacy Rule, have entered into this Business Associate Agreement to comply with the Health Insurance Portability and Accountability Act of 1996 (HIPAA), the Final Privacy regulation requirements for such an Agreement, as well as our duty to protect the confidentiality and integrity of Protected Health Information (PHI) required by law, Department policy, professional ethics, and accreditation requirements. Parties signing this Agreement shall fully comply with the provisions of the Regulations implementing HIPAA.

This Agreement will have, at a minimum, the following attachments: Chain of Trust Attachment, Data Security Plan Attachment, and Scope-of-Work Attachment.

[Covered Entity] and [Business Associate] desire to facilitate the [provision of][billing or transfer of PHI] in agreed formats and to assure that such transactions comply with relevant laws and regulations.

NOW THEREFORE, the parties, intending to be legally bound, agree as follows:

I. Definitions.

As used in this contract, the terms below will have the following meanings:

- a. Business Associate: A person or organization that performs a function or activity on behalf of the Covered Entity, but is not part of the Covered Entity's workforce. A business associate can also be a covered entity in its own right.
- b. Covered Entity: Includes 1) All health care providers who transmit any health information electronically in connection with standard financial or administrative transactions, 2) All health plans, 3) All health care clearinghouses. Covered entities are accountable for PHI. Centers for Medicaid and Medicare Services (CMS) (formerly HCFA), Medicare + Choice and Medicaid State plans are also covered entities.
- c. Provider: Any entity eligible to be enrolled and receive reimbursement through Covered Entity for any Medicaid-covered services.
- d. MMIS: The Medicaid Management Information System, the computer system that is used to maintain recipient, provider, and claims data for administration of the Medicaid program. This system is currently managed under a contract with First Health Services Corp., which serves as Covered Entity's fiscal agent.

## II. Terms.

The terms of this Agreement are outlined in the Scope-of-Work Attachment. The Scope-of-Work will define and delineate DMAS and Business Associate's responsibilities under the conditions of this Agreement.

## III. Notices.

Written notices to the Covered Entity should be sent through general mail to:

Contact: (originating Covered Entity contract manager)  
 Department of Medical Assistance Services  
 600 East Broad Street  
 Richmond, Virginia 23219

## IV. Special Provisions to General Conditions.

### 1. Use and Disclosure of PHI.

1.1 Use of PHI. Business Associate shall not use PHI otherwise than as expressly permitted by this Agreement, or as required by law. However, Business Associate may use PHI for purposes of managing its internal business processes relating to its functions under this Agreement. Business Associate shall be permitted to use and disclose PHI provided by Covered Entity as follows:

- (i) To the following persons [insert specific persons, parties, e.g., employees, agents, contractors]; and
- (ii) For the following stated purposes: [insert general description of purposes, e.g., as required for Business Associate to provide the dictation services described in this contract].

1.2 Disclosure to Third Parties. Business Associate shall ensure that any agents and subcontractors to whom it provides PHI received from Covered Entity (or created or received by Business Associate on behalf of Covered Entity) agree in writing to the same restrictions, terms, and conditions relating to PHI that apply to Business Associate in this Contract. Covered Entity shall have the option to review and approve all such written agreements between Business Associate and its agents and subcontractors prior to their effectiveness.

1.3 Disclosure and Confidentiality. Business Associate must have a confidentiality agreement in place with individuals of its workforce who have access to PHI. A sample Authorized Workforce Confidentiality Agreement is included as Exhibit B. Issuing and maintaining these confidentiality agreements will be the responsibility of the Business Associate. Covered Entity shall have the option to inspect the maintenance of said confidentiality agreements.

1.4 Disclosure to workforce. Business Associate shall not disclose PHI to any member of its workforce except to those persons who have authorized access to the information, who have received privacy training in PHI, and who have signed an agreement to hold the information in confidence.

## 2. Safeguards

2.1 Safeguards. Business Associate shall implement and maintain appropriate safeguards to prevent the use and disclosure of PHI, other than as provided in this Contract. A description of such safeguards in the form of a Business Associate Data Security Plan submitted by the Business Associate (see Exhibit A) shall be attached to this Contract and shall be considered a part hereof. Covered Entity's approval of such safeguards and any of Business Associate's measures to update or add safeguards during the Contract shall be required. Upon reasonable request, Business Associate shall give Covered Entity access for inspection and copying to Business Associate's facilities used for the maintenance or processing of PHI, and to its books, records, practices, policies and procedures concerning the use and disclosure of PHI, for the purpose of determining Business Associate's compliance with this Agreement.

## 3. Accounting of Disclosures.

3.1 Accounting of Disclosures. Business Associate shall maintain an ongoing log of the details relating to any disclosures of PHI it makes (including, but not limited to, the date made, the name of the person or organization receiving the PHI, the recipient's address, if known, a description of the PHI disclosed, and the reason for the disclosure). Business Associate shall, within thirty (30) days of Covered Entity's request, make such log available to Covered Entity, as needed for Covered Entity to provide a proper accounting of disclosures to its patients.

3.2 Disclosure to U.S. Department of Health and Human Services (DHHS). Business Associate shall make its internal practices, books, and records relating to the use and disclosure of PHI received from Covered Entity (or created or received by Business Associate on behalf of Covered Entity) available to the Secretary of DHHS or its designee for purposes of determining Covered Entity's compliance with HIPAA and with the Privacy Regulations issued pursuant thereto. Business Associate shall provide Covered Entity with copies of any information it has made available to DHHS under this section of this Contract.

## 4. Reporting

4.1 Reporting Violations. Business Associate shall report to Covered Entity within thirty (30) days of discovery, any use or disclosure of PHI made in violation of this Contract or any law. Business Associate shall implement and maintain sanctions for any employee, subcontractor, or agent who violates the requirements in this Contract or the HIPAA privacy regulations. Business Associate shall, as requested by Covered Entity, take steps to mitigate any harmful effect of any such violation of this Contract.

## 5. Access and Amendment to PHI

5.1 Right of Access. Business Associate shall make an individual's PHI available to Covered Entity within thirty (30) days of an individual's request for such information as notified by Covered Entity. [Optional: PHI shall be provided as follows: [insert format, e.g., floppy disk.]

5.2 Right of Amendment. Business Associate shall make PHI available for amendment and correction and shall incorporate any amendments or corrections to PHI within thirty (30) days of notification by Covered Entity.

## 6. Termination

6.1 Termination. Covered Entity may immediately terminate this Contract if Covered Entity determines that Business Associate has violated a material term of this Contract. This Agreement shall remain in effect unless terminated for cause by [Covered Entity] with immediate effect, or until terminated by either party with not less than thirty (30) days prior written notice to the other party, which notice shall specify the effective date of the termination; provided, however, that any termination shall not affect the respective obligations or rights of the parties arising under any Documents or otherwise under this Agreement before the effective date of termination. Within thirty (30) days of expiration or earlier termination of this Contract, Business Associate shall return or destroy all PHI received from Covered Entity (or created or received by Business Associate on behalf of Covered Entity) that Business Associate still maintains in any form and retain no copies of such PHI. Business Associate shall provide a written certification that all such PHI has been returned or destroyed, whichever is deemed appropriate. If such return or destruction is infeasible, Business Associate shall use such PHI only for purposes that make such return or destruction infeasible and the provisions of this Contract shall survive with respect to such PHI.

## 7. Amendment

7.1 Amendment. Upon the enactment of any law or regulation affecting the use or disclosure of PHI, or the publication of any decision of a court of the United States or of this state relating to any such law, or the publication of any interpretive policy or opinion of any governmental agency charged with the enforcement of any such law or regulation, Covered Entity may, by written notice to the Business Associate, amend this Agreement in such manner as Covered Entity determines necessary to comply with such law or regulation. If Business Associate disagrees with any such amendment, it shall so notify Covered Entity in writing within thirty (30) days of Covered Entity's notice. If the parties are unable to agree on an amendment within thirty (30) days thereafter, either of them may terminate this Agreement by written notice to the other.

EACH PARTY has caused this Agreement to be properly executed on its behalf as of the date first above written.

For: [Name of Covered Entity]

For: [Name of Business Associate]

BY: \_\_\_\_\_

BY: \_\_\_\_\_

\_\_\_\_\_  
[printed name & title – Director or Designee]

\_\_\_\_\_  
[printed name & title – CEO, Director or Designee]

Division Chief/Deputy Director  
Program Manager (Branch Chief & Above)  
Information Security Officer (ISO)  
Privacy Officer

Security Officer  
Privacy Officer